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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,566	07/27/2000	Qingping Jiang	CCDLT-300XX	9704

207 7590 10/23/2003

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EXAMINER

GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 10/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,566

Applicant(s)

Jiang et al.

Examiner

Ralph Gitomer

Art Unit

1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 21, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8, 22, 25, 29, and 43-61 is/are pending in the application.
- 4a) Of the above, claim(s) 8, 22, 25, 29, and 47-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 18
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The faxed amendment received 10/21/2003 has been entered and claims 8, 22, 25, 29, 43-61 are currently pending in this application. The Response to Restriction Requirement received
5 5/5/2003, paper #16, has been entered and it is presumed that the new claims 43-46 submitted are intended to be entered. Claims 43-46 are elected with traverse and are considered here. The amended abstract is acceptable, the amended title is not acceptable. The IDS's received 11/13/2000 and 3/14/2001 have not
10 been considered because none of the references are found in the file and are not readily available to the examiner.

Newly submitted claims 47-61 are directed to an invention that is independent or distinct from the invention originally
15 claimed for the following reasons: The new claims are broader than the elected claims and would require further searching and/or consideration. Further, they would encompass additional inventions.

Since applicant has received an action on the merits for the
20 originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-61 are withdrawn from consideration as being directed to a non-elected invention. See
37 CFR 1.142(b) and MPEP § 821.03.

Claims 43-46 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

A search reveals the compounds of claims 43-46 are novel as claimed because of the substitutions of P is a phosphate sodium or a sugar moiety. However, the examples provided, such as in Fig. 1I and #4 on page 10 of the specification, are inconsistent with the claims which do not allow for a methoxy substitution or a substituent on the phosphate as shown. These structures have not been searched or considered here because they are not claimed.

The amendment received 10/21/2003 is silent regarding the above rejection.

The title of the invention is not aptly descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure is objected to because of the following informalities:

On page 19 and other instances the structure is not shown in the specification, appropriate correction is required. Please confirm the specification is complete and inform the examiner

where support is found in the specification as originally filed for all the features in new claims 43-46. No new matter may be added.

5 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the
15 statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm. The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the
25 examiner's supervisor, Michael Wityshyn can be reached on (703)

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308-4743. The fax phone number for this Art Unit is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235. For 24 hour access to patent application information 7 days per week, or for filing applications electronically, please visit our website at www.uspto.gov and click on the button Patent Electronic Business Center for more information.

Ralph Gitomer

Ralph Gitomer
Primary Examiner
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RALPH GITOMER
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